

**RESOLUTION NO. 15-023**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS  
APPROVING SITE DEVELOPMENT PERMIT AMENDMENT NO. SA15-0002 TO  
ALLOW MODIFICATIONS TO AN EXISTING SIGN PROGRAM FOR A MULTI-  
TENANT SHOPPING CENTER BUILDING CONSISTING OF WALL SIGNS AND  
MONUMENT SIGNS AT 648-794 BARBER LANE.**

**WHEREAS**, on April 24, 2014, an application was submitted by Jason Phung with Sign Express Manufacturing, 1438 Santa Anita Ave., South El Monte, CA (“Applicant”) for a Site Development Permit Amendment to allow for an amendment to the existing master sign program for the Ulferts Shopping Center located at 648-794 Barber Lane. The property is located within General Commercial Zoning District (APN: 86-01-035).

**WHEREAS**, the Planning Division completed an environmental assessment for the Project in accordance with the California Environmental Quality Act (CEQA), and recommends that the Planning Commission determine this Project exempt under CEQA.

**WHEREAS**, on July 8, 2015, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties.

**NOW THEREFORE**, the Planning Commission of the City of Milpitas hereby finds, determines and resolves as follows:

**Section 1:** The Planning Commission has duly considered the full record before it, which may include but is not limited to such things as the City staff report, testimony by staff and the public, and other materials and evidence submitted or provided to the Planning Commission. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

**Section 2:** The proposed Project is categorically exempt from further CEQA review under Section 15301 (Existing Facilities) and 15311 (Accessory Structures) of the CEQA Guidelines. The project is an existing industrial development that proposes an amendment to an existing master sign program for multi-tenant shopping center. The amendment provides for additional provisions to allow for an additional sign band location on the rear elevation and projecting signs on the premises.

**Section 3:** *Site Development Permit (Section XI-10-57-03(F)) - The Planning Commission makes the following findings based on the evidence in the public record in support of Site Development Permit No. SD14-0022:*

1. *All elements of the sign, including design, lighting, scale, length and materials, are consistent with the intent of the General Plan, the Sign Ordinance and any applicable Specific Plan.*

The project is consistent with the General Plan's Implementing Policy 2.a-I-3 and Implementing Policy 2.a-I-7 in that the proposed signage would help promote the Ulferts Shopping Center, encourage economic pursuits and business retention by providing appropriate visibility, and business identification.

The Zoning Designation for this site is General Commercial, which allows various commercial and retail uses. The purpose and intent of the General Commercial Zoning District is to provide for a wide range of retail, personal and business services primarily oriented to the automobile customer. The project is consistent with this designation in that the project provides business identification for the shopping center and its tenants.

As further described herein, the project is consistent with Milpitas Sign Ordinance in that the proposed sign proposal complies with the total allowable sign area, number of freestanding signs, sign height, and appropriateness of the sign design as described above.

#### Sign Area

Per MMC XI-10-24.03(B) (Maximum Permissible Sign Area), the site is allowed a maximum of 720 square feet for signs, based on two square feet of sign area for every lineal feet of street frontage. As demonstrated in Table 1, the proposed sign program would allow a total of 720 square feet of sign area. Based on the sign program, the total sign area is distributed proportionately to each tenant based on square footage. The sign program multiplier for tenant building signage is determined by the following calculations:

$719.72 \text{ (total allowable sign area)} - 99.81 \text{ (Center ID sign)} = 619.91 \text{ (sign area to be allocated to each tenant)}$   
 $619.91 / 39,100 \text{ (total building square footage)} = 0.0158$

**Table 1:**  
**Sign Area Calculations**

<b>Sign Type</b>	<b>Quantity</b>	<b>Sq. Ft.</b>	<b>Total Square Footage</b>
Existing Center ID Sign	1	99.81	99.81
Existing Tenant Signage	19	270.18	270.18
Existing Directional Monument Sign	2	11.65	23.31
Total Sign Area			393.3
Total Allowable Sign Area			719.72

#### Sign Height and Number of Freestanding Signs

The existing freestanding sign was previously approved with original sign program and Conditional Use Permit No. 1408 and therefore complies with the Sign Ordinance requirements and development standards.

Sign type, materials and location

Table 2 summarizes the sign types, illumination, and location that are proposed for the Ulferts Shopping Center sign program.

**Table 2:**  
**Sign Type, Illumination, and Location**

Sign	Sign Type	Illumination	Location
Center ID Sign	Metal fabricated sign with stucco finish and internally illuminate Center ID and Major Tenant panels	Internally Illuminated	Southeast Corner
Tenant Sign	Individual Channel Letters	Internally Illuminated	Designated Sign Band on all elevations with interior courtyard and along the east elevation.
	Projecting signs	Non-illuminated	Interior corner units

An elevation exhibit of the proposed monument signs is shown below. As depicted, the proposed signs provide design consistency and uniformity in terms of design, materials, fabrication, and illumination.

Sign Program

The applicant is requesting approval of a Site Development Permit for a sign program that will allow for a comprehensive tenant identification sign system for the Ulferts Shopping Center. Pursuant to MMC XI-10-24.05 (F) (Sign Programs), a sign program is required for multi-tenant buildings to ensure design consistency and uniformity. The Ulferts Center sign program (Attachment B) provides for the locations, dimensions, and styles of the exterior tenant signage. Based on the sign proposal, the sign program, sign type, illumination and locations provide orderly, harmonious, and effective signage.

2. *The design, scale and materials of the sign harmonize with the architectural design and details of the building or site it serves.*

The sign program includes a combination of illuminated individual channel letter wall signs, non-illuminated projecting signs for certain tenants, and one freestanding Center ID sign. The sign program includes specifications for the letter height, sign length, calculation for sign area, type of illumination and construction that will ensure design consistency and uniformity.

3. *The design and scale of the sign is appropriate to the distance from which the sign is normally viewed.*

The proposed signs provide for visibility and legibility, and provide the appropriate relationship of scale and height to the building. The logo and lettering on the exterior wall are appropriate for the size of the building because the wall signs will be located within the designated sign bands. The sign depth and halo illumination adds to the visibility and architectural interest. The existing driveway monuments are appropriate and necessary to provide business identification and way-finding.

4. *The design and materials of the sign provide a contrast between the background and letters.*

The signs include a combination of internally illuminated individual channel letters and logo with front and back halo illumination that are wall mounted and non-illuminated projecting signs. The sign depth and type of illumination provides an appropriate contrast between the background and letters.

#### Sign Program

5. *The provisions of the Sign Program ensure consistency in design and style of all new signs.*

The proposed sign program specifies the sign type, letter and logo heights, sign length and designates sign locations as well as construction requirements to ensure orderly, harmonious, and aesthetic business identification for the business park. The sign program includes a combination of internally illuminated wall signs, non-illuminated projecting signs, and monument signs. The proposed finish for the wall signs will consist of internally illuminated channel letters that face the interior courtyard and along the rear elevations. The non-illuminated projecting signs are located on the corner units that face the rear parking lot.

6. *The provisions of the Sign Program address compatibility of the design and style of any existing signs on the building or site.*

The proposed sign program addresses compatibility of materials and design continuity with existing signs in that the sign program remains relatively the same. The only change to the sign program is adding sign bands on the rear elevation for one of their major tenant (85-degree Bakery) for the purpose of business identification and better visibility. The other change was the addition of projecting signs which are provided for corner tenants that are adjacent to a walkway.

7. *All new signs within the Sign Program are in compliance with the design guidelines of this Chapter.*
- a. The project is consistent with Chapter 24 (Signs) of the Zoning Code in that the proposed sign area is within the total allowable sign area. The proposed logo and lettering on the exterior wall and monument signs are appropriate and proportionate to the scale and massing of the building. As proposed, the sign program establishes sign criteria that provide for design consistency and uniformity for signage. As proposed, signs are to be installed within

the designated sign bands on the building and existing monument sign and comply with sign area and letter/logo height requirements.

- b. The proposed signs have the appropriate relationship of height to the building. The logo and lettering on the exterior wall and monument sign are appropriate for the size of the building and/or freestanding sign structure and provide for attractive business identification that is clear and legible.

**Section 4:** The Planning Commission of the City of Milpitas hereby adopts **Resolution No. 15-018 approving Site Development Permit Amendment No. SD15-0002, to allow for an amendment to the master sign program for multi-tenant shopping center at 648-794 Barber Lane subject to the conditions of approval based on the above Findings and subject to the Conditions of Approval attached hereto as Exhibit 1 incorporated herein.**

**PASSED AND ADOPTED** at a regular meeting of the Planning Commission of the City of Milpitas on July 8, 2015.

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Chair

**TO WIT:**

**I HEREBY CERTIFY** that the following resolution was duly adopted at a regular meeting of the Planning Commission of the City of Milpitas on July 8, 2015, and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Sudhir Mandal				
Larry Ciardella				
Gurdev Sandhu				
Rajeev Madnawat				
Demetress Morris				
Hon Lien				
Ray Maglalang				
Zeya Mohsin (alternate)				

**EXHIBIT 1****CONDITIONS OF APPROVAL  
SITE DEVELOPMENT PERMIT NO. UP15-0002****General Conditions**

1. General Compliance. The applicant and owner, including all successors in interest (collectively “Permittee”) shall comply with each and every condition set forth in this Permit. This Site Development Permit No. SD14-0022 (collectively “Permit”) shall have no force or effect and no building permit shall be issued unless and until all things required by the below-enumerated precedent conditions have been performed or caused to be performed and this Resolution has been recorded by the Permittee with the Santa Clara County’s Recorder Office and a copy shall be provided to the Planning Department. **(P)**
2. Effective Date. Unless there is a timely appeal filed in accordance with the Milpitas Zoning Code, the date of approval of this Permit is the date on which the decision-making body approved this Permit. **(P)**
3. Acceptance of Permit. Should Permittee fail to file a timely appeal within twelve (12) calendar days of the date of approval of this Permit, inaction by Permittee shall be deemed to constitute each of the following:
  - a. Acceptance of this Permit by Permittee; and
  - b. Agreement by the Permittee to be bound by, comply with, and to do all things required of or by Permittee pursuant to all of the terms, obligations, and conditions of this Permit. **(P)**
4. Permit Expiration. Pursuant to Section XI-10-64-06 of the Milpitas Zoning Code, this Permit shall become null and void if the activity permitted by this Permit is not commenced within two (2) years from the date of approval, or for a project submitted with a tentative map, within the time limits of the approved tentative map. Pursuant to Section XI-10-64.06(B) of the Milpitas Zoning Code, an activity permitted by this Permit shall be deemed to have commenced when the project:
  - a. Completes a foundation associated with the project; or
  - b. Dedicates any land or easement as required from the zoning action; or
  - c. Complies with all legal requirements necessary to commence the use, or obtains an occupancy permit, whichever is sooner. **(P)**
5. Time Extension. Pursuant to Section XI-10-64.07 of the Milpitas Zoning Code, unless otherwise provided by State law, Permittee shall have the right to request a one-time extension of the Permit if the request is made in writing to the Planning Division prior to the expiration date of the approval. **(P)**

6. Project Job Account. If Permittee's project job account is at any time delinquent or below the required deposit amount, City will not continue to review or process the application until Permittee's private job account is paid in full and the required deposit has been made. Additionally, prior to the issuance of any building permit or occupancy permit, as applicable, Permittee shall pay in full the project account balance and establish a remaining balance of at least twenty-five percent (25%) of the required initial deposit. **(P)**
7. Notice. Pursuant to California Government Code Section 66020, any protest filed in court relating to the imposition of fees, dedication, reservations, or other exactions to be imposed on the development project shall be filed within ninety (90) days after the date of the adoption of this Resolution. This provision serves as notice from the local agency to the Permittee that the ninety (90) day period in which the Permittee may file a protest has begun under California Government Code Section 66020(d)(1). **(P)**
8. Cost and Approval. Permittee shall fully complete and satisfy each and every condition set forth in this Resolution and any other condition applicable to the project to the sole satisfaction of the City. Additionally, Permittee shall be solely responsible and liable for the cost to satisfy each and every condition. Permittee shall pay all required fees and charges to City at the rate in effect at time of building permit issuance, or, the rate in effect when the fees and charges are due and paid in full to City. There is no vesting of any fees or charges with the adoption of this Resolution. **(P)**
9. Conditions. Each and every condition set forth in this Exhibit shall apply to the project and continue to apply to the project so long as the Permittee is operating the project under the permits and approvals in this Resolution. **(P)**
10. Compliance with Laws. The construction, use, and all related activity authorized under this Permit shall comply with all applicable local, state, and federal laws, rules, regulations, guidelines, requirements, and policies. **(CA/P)**
11. Previous Approvals. Permittee shall abide and continue to comply with all previous City approvals, permits, or requirements relating to the subject property, unless explicitly superseded or revised by this Permit. **(P)**
12. Indemnification. To the fullest extent permitted by law, Permittee shall indemnify, defend with counsel of the City's choosing, and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to (i) City's approval of the project, including but not limited to, the approval of the discretionary permits, maps under the Subdivision Map Act, and/or the City's related determinations or actions under the California Environmental Quality Act, and (ii) Permittee's construction, operation, use, or related activity under this Permit. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City,

and/or the parties initiating or bringing such proceeding. Permittee shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. Permittee shall pay to the City upon demand or, as applicable, to counsel of City's choosing, any amount owed pursuant to the indemnification requirements prescribed in this condition. **(P/CA)**

13. Revocation, Suspension, Modification. This Permit may be suspended, revoked, or modified in accordance with Section XI-10-63.06 of the Milpitas Zoning Code. **(P)**
14. Severability. If any term, provision, or condition of this Permit is held to be illegal or unenforceable by the Court, such term, provision, or condition shall be severed and shall be inoperative, and the remainder of this Permit shall remain operative, binding, and fully enforceable. **(P)**
15. Permittee shall develop the approved project in conformance with the approved plans approved by the Planning Commission on (January 28, 2015), in accordance with these Conditions of Approval. Any deviation from the approved site plan, elevations, materials, colors, landscape plan, or other approved submittal shall require that, prior to the issuance of building permits, the Permittee shall submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the Planning Director or Designee. If the Planning Director or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain approval of the Planning Commission or City Council, as applicable, in accordance with the Milpitas Zoning Code. **(P)**
16. Compliance with Fire Department and CA Fire Code. The Project shall comply with the requirements of the Milpitas Fire Department and the CA Fire Code. Changes to the site plan and/or building(s) requires review and approval by the Fire Department. **(F)**
17. Written Response to Conditions. The Permittee shall provide a written response to the Conditions of Approval indicating how each condition has been addressed with the building permit application submittal. **(ALL)**

#### **Site Development Permit**

18. The Permittee shall incorporate the following sign program corrections:

- a) Signs shall be graphic with a design emphasis on simplicity, style, business name, logo and/or trademark.
- b) Revise submittal requirements to include sign area calculations.

(P) = Planning

(B) = Building

(E) = Engineering

(F) = Fire Prevention

(CA) = City Attorney